

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CHRISTOPHER SHEPHERD and BRYANT)
DAVIS, individually and on behalf of all other)
similarly situated persons, known and)
unknown,) Case No. 1:24-cv-06600
Plaintiffs,)
Hon. Sara L. Ellis
v.)
FLEX-N-GATE LLC, and Illinois limited)
liability company; FLEX-N-GATE)
PLASTICS LLC, and Illinois limited liability)
company; and FLEX-N-GATE CHICAGO,)
LLC, a Delaware limited liability company,)
Defendants.)

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs Christopher Shepherd and Bryant Davis respectfully submit this supplemental authority to inform the Court of the recent decision in *Scott Collins v. NTN Bearing Corporation of America et al.*, 2024-cv-6726 (N.D. Ill.).¹ The present case involves a class action complaint alleging a violation of the Illinois Genetic Information Privacy Act (“GIPA”), 410 ILCS 513/1 *et seq.*, arising from the defendant employers’ alleged solicitation of the Plaintiffs’ family medical history during a mandatory preemployment physical examination performed by a third-party medical provider selected by the Defendants. *NTN* squarely addresses the arguments raised in opposition to Defendants’ 12(b)(6) Motion to Dismiss and 12(f) Motion to Strike (“Motion”) and supports Plaintiffs’ contention that the Defendants’ direct or indirect solicitation and collection of

¹ A copy of the Memorandum Opinion & Order denying the defendants' motion to dismiss in *NTV* is attached as **Exhibit 1**.

information regarding its prospective employees' family medical histories during the course of preemployment Fitness-For-Duty or other similar physical examinations violated sec. 25(c)(1) of GIPA and gives rise to an actionable claim against them. *NTN* further addresses Defendants' inadvertent disclosure argument.

The Court may rely on the *NTN* opinion as persuasive authority. Good cause exists to support this notice as the *NTN* decision did not exist at the time Plaintiffs filed their response brief. Defendants' Motion is currently pending before the Court.

Dated: February 20, 2025

Respectfully submitted,

/s/ S. Jarret Raab

Gary M. Klinger
S. Jarret Raab
**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, PLLC**
227 W. Monroe Street, Suite 2100
Chicago, Illinois 60606
Tel. 866.252.0878
gkliner@milberg.com
jraab@milberg.com

Zachary Arbitman
George Donnelly*
**FELDMAN SHEPHERD WOHLGELERNTER
TANNER WEINSTOCK & DODIG, LLP**
1845 Walnut Street, 21st Floor
Philadelphia, Pennsylvania 19103
Tel: 215.567.8300
zarbitman@feldmanshepherd.com
gdonnelly@feldmanshepherd.com

*Admitted *Pro Hac Vice*

*Counsel for Plaintiff and the Proposed
Class*

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2025, I caused a true and correct copy of the foregoing Plaintiffs' Second Notice of Supplemental Authority to be filed with the Clerk of the Court for the Northern District of Illinois via the Court's CM/ECF system, which will send notification of such filing to the counsel of record in the above-captioned matter.

/s/ S. Jarret Raab _____

S. Jarret Raab